

*W. Montelliff from the editor*

A

# STATEMENT

OF

## FACTS AND LAW,

RELATIVE TO THE PROSECUTION OF THE

REV. CLARK BENTON,

PROTESTANT MISSIONARY FROM THE LONDON MISSIONARY  
SOCIETY,

FOR THE ASSUMPTION OF THE OFFICE OF A

DISSENTING MINISTER OF THE GOSPEL,

IN QUEBEC,

BY THE

KING'S ATTORNEY GENERAL

OF LOWER CANADA.

---

If thou see the oppression of the poor, and violent perverting of judgment and justice in a province, marvel not at the matter; for he that is higher than the highest regardeth, and there be higher than they. *Solomon.*

FEAR not thou worm Jacob, thou shalt thresh the MOUNTAINS, and beat them small. *Isaiah.*

---

TROY:

PRINTED FOR THE AUTHOR, BY O. PENNIMAN & CO.

1804.



## PREFACE.

---

THE following publication will, I humbly suppose, afford an answer to the enquiries of my friends and the public; who have expressed an earnest desire of possessing a clear account of the singular species of persecution, raised in Quebec against me and the congregation whom I serve in the gospel of Christ. My adversaries, I well know, will disclaim the idea of persecution for conscience sake; yet who that reads the following pages, with the least degree of attention, can give their proceedings, designed to dispossess me of my pastoral office, any other name? I was conscientiously called by the congregation to minister unto them in all holy things, and I conscientiously undertook, as God should assist me, to be their spiritual guide and pastor under the true Bishop of souls, Christ Jesus: consequently every endeavour to prevent me fulfilling the duties of my office, must partake more or less of religious persecution. If a law actually existed which sanctioned the conduct of my opponents, that law would be a persecuting one, which in the present age would disgrace the legal institutions of the country; but justice obliges me to say, that in this instance the whole dishonor and criminality lie at the door of interested individuals; who, I fear, seek more their own honor and advantage than the honor and advantage of their Sovereign, or the peace and prosperity of the Canadian Provinces.

THE prosecutors pretend they have no design on the congregation, to prevent them worshipping God according to the dictates of their consciences; but this is a veil too thin to hide their intentions. "Smite the shepherd and the sheep will be scattered," is a truth sufficiently plain to be understood by the weakest capacity. How can a people be tolerated whose minister is not allowed to perform all the functions of the Christian ministry? What an insult to the understandings of men, to tell them, "You are free to choose your own religion; your minister, notwithstanding, is free only to officiate in such parts of his duty as we please to judge convenient."

THE reasons of my thus making the world acquainted with the whole proceedings, are not revenge, nor the least factious design of insulting the government or its officers, as certain creatures of the provincial ministry insinuate. So far was I from seeking to avenge myself, that had the proceedings been

stayed when I applied to the Attorney General for that purpose, January 7th, 1804, laying before him in the presence of Mr. William Laing, an elder of my church, a testimonial of ordination, and a written declaration of the congregation stating that I was their appointed, accepted pastor in all holy things; I should not have stirred another step in the business, notwithstanding the great injustice and abuse I had suffered; but finding he still persisted in the prosecution, with the greatest obstinacy, holding me up as a criminal acting without law, of course a dangerous member of society, which is the direct tendency, and I suppose one intended effect of the prosecution; I thought, as did my congregation, that it became my indispensable duty to lay the entire business before the House of Commons of Great Britain and the public at large, lest our civil immunities should be wrested from us and the religious liberty of the country mortally wounded, under the dark cloud of political intrigue and law quibble.

If the prosecution had been founded in law and lawfully conducted, and could I have obtained disinterested legal advice, there would have been doubtless an impropriety in addressing the public on the subject, before it was brought to a legal issue; but as it appears altogether instituted in defiance of the constitution of the Canadas, and the usage of law courts, and unnecessarily delayed, it must be confessed I am fully justified in seeking protection in the public opinion.

WHAT confidence I had to place in the equity of the Court of King's Bench, I shall leave others to judge, begging them only to recollect,

FIRST, That several of the judges are my adverse party, having refused to sign my annual register of baptisms, marriages and deaths; of course in giving judgment against me they would justify themselves.

SECONDLY, The honorable court admitted an information *quo warranto*, to be filed in a criminal session against me, for the assumption of the office of a dissenting minister of the gospel, without the existence of a law that made such an action criminal, or the station I held a public office.

THIRDLY, The said court issued a criminal warrant, whereby I was made a prisoner before them, without a crime against the laws of my country laid to my charge.

FOURTHLY, The court obliged me, taken up as a criminal, to file a special plea, or remain a prisoner on bail.

FIFTHLY, The same Judges, when I was deserted by Mr. Ker, the Attorney I had employed to file my plea, refused on my petitioning for it, to appoint me a law assistant, although it was in their power so to do.

I would here publicly and solemnly ask the honorable Court of King's Bench, of the district of Quebec, by what royal

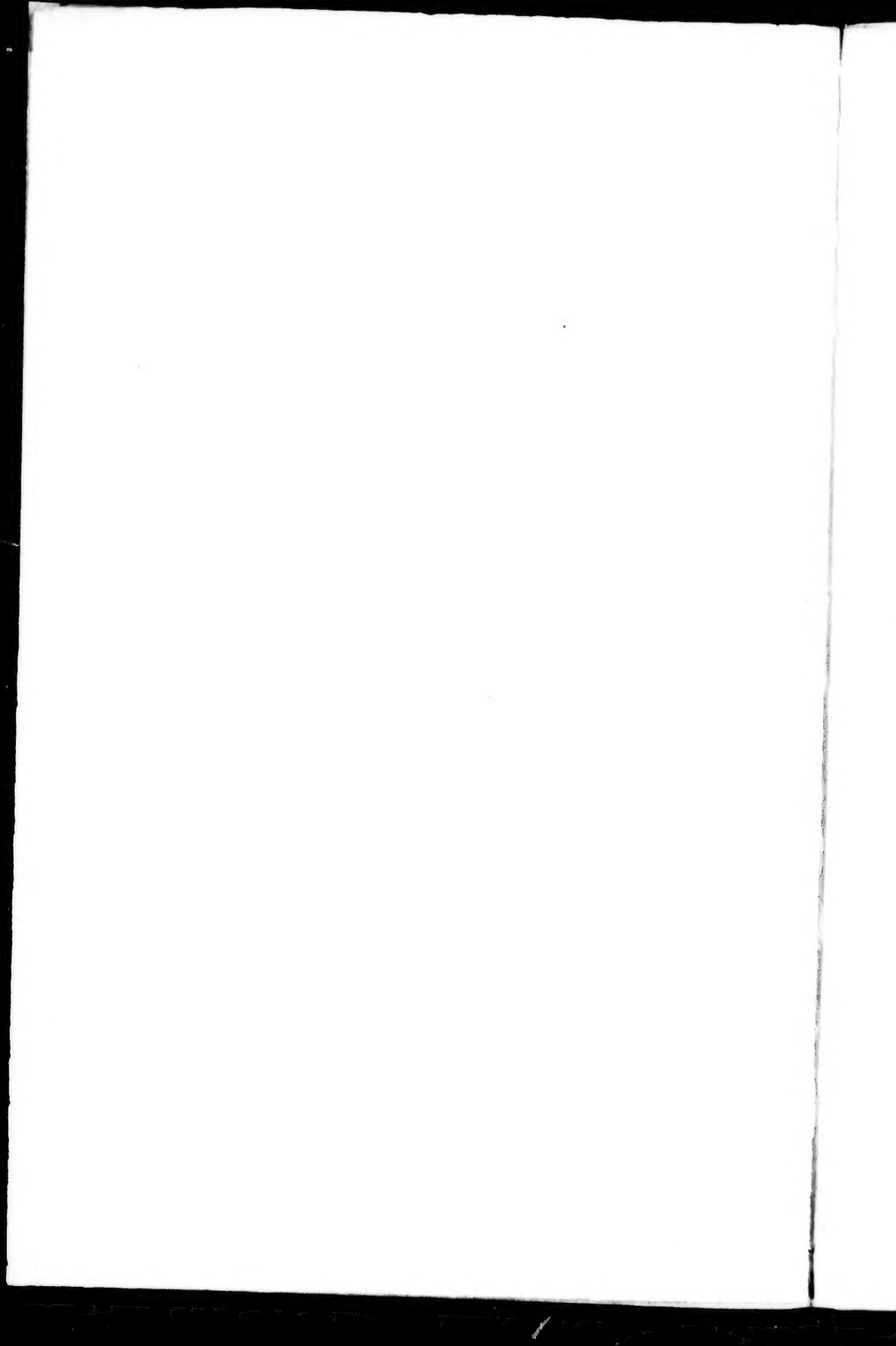
grant, legal warrant, right or authority, they admitted the information quo warranto against me, and made me a prisoner, and whether I have not full liberty to refuse being arraigned at their bar, unless some crime against the laws of my country be laid to my charge?

No man could be more determined than myself, when admitted to the gospel ministry, to adhere closely in respect of civil magistrates unto scripture politics, which are briefly summed up in this apostolic precept; "Be subject to every ordinance of man for the Lord's sake." This injunction must be understood of ordinances which do not contradict the truth and laws of Christ, as I believe is the case at present with the laws of the British Empire, relating to dissenting ministers of the gospel. I have therefore with all cheerfulness paid the utmost deference to the powers that are in my country, and most exact obedience to the statutes of the realm. Whether my persecutors have done so, let the public judge, when they have well considered the nature of the Attorney General's vexatious suit, intended to deprive me of the power of fulfilling the duties of that ministry I received from Jesus Christ, and fully tolerated and sanctioned by the constitution and usage of the Canadas.

I THINK myself in duty bound to pay respect to the officers of the crown; but religious liberty is a blessing too invaluable to be lightly esteemed or easily parted with; it ought to be vigorously defended by every sincere lover of God and precious souls; and blessed be God, it is defended by the real laws of the Provincial Government, notwithstanding the attempt of the Episcopalian Faction to prove the contrary. In doing, therefore, what I have done, to protect liberty of conscience in Canada, I have only discharged my duty towards God, his Christ, and the souls he hath redeemed. I have performed no more than what dissenters of every description in the Province had a right to expect of me; no more than what seemed absolutely required for the vindication of my Sovereign's honor, and the laws of his dominion, both of which have been injured by the malpractice of their ministers. My conscience thus applauding what I have done, I can look down with composure and pity on the malevolent calumny of ignorant pride and interested servility.

CLARK BENTON.

QUEREC, 14th January, 1804.



# STATEMENT

OF

## FACTS AND LAW, &c.

WHEN called and enabled by the God of grace, who lifteth the beggar from the dunghill, and seteth him among the princes of his people, to engage in the arduous work of the gospel ministry, I had not the least idea of escaping persecution, provided I were found faithful to God and the consciences of men. Faithfulness in preaching the holy truth of Christ, and in exposing and reproofing false doctrines and evil practices, is no small part of a minister's practical godliness; and he that will live godly in Christ Jesus shall suffer persecution. The calumny therefore and injurious treatment I have suffered from the ignorant and profane, came by no means unexpectedly upon me: for as in ages past, he that was born after the flesh, persecuted him that was born after the spirit; so it continues until this day. I did not, however, could not, expect that in Canada, where Popery is tolerated and supported, if not established by law, and where, as the world have hitherto supposed, liberty of conscience has been granted in the amplest manner to all denominations of religion, I should have been vexed and oppressed with a law prosecution, and brought before the Court of King's Bench as a culprit, for having assumed the office of a pastor over a congregation of protestant dissenters, which by the divine assistance I had gathered and organized myself: yet extraordinary as it may seem, such has been the case; Satan having found instruments by whom in opposition to all law, civil and divine, to worry the sheep of Christ, whom he cannot devour.

THE proceedings of my persecutors are truly strange, and in themselves but contemptible; yet, in their effect on my character and the peace of my congregation, grievously oppressive. The measures pursued by his Majesty's ministers of Lower Canada, for the purpose of driving me from my post as a minister of the gospel in Quebec, are, I under correction, humbly conceive a formidable attack on the liberty of the Province. I hope, therefore, the public will patiently

attend to the statement of facts and law, relative to the business which I am desirous of laying before them.

As my circumstances are in some degree like the apostles of old, who though well known, were unknown; well known by every description of persons in the Roman Empire; yet unknown, unsupported namely and unacknowledged, as lawful teachers, by the rich and great, who as themselves thought possessed too much good sense to be acquainted with, or to encourage such contemptible characters as fishermen, tentmakers, &c. who dared without the approbation of the then established clergy, to assume the office of gospel ministers, and to perform the clerical duties of their respective congregations; I would therefore begin the vindication of my character and civil rights, by stating the nature of the society to which I belong, and the providential means of my becoming a spiritual pastor in Quebec.

IN the year 1795, a truly evangelical spirit of love towards souls destitute of the saving light of scripture truth, obtained place in the hearts of all denominations of Christian religionists, Arians and Socinians excepted; in consequence of which a society was formed consisting of many hundreds of pious ministers of very different persuasions, indeed, in point of church government, and the non-essentials of their holy religion, very firmly united nevertheless, in the pursuit of one grand object, viz. the conversion if possible from darkness to light of heathens and heathen like sinners. This associate body, so honorable to the Christian profession, took the name of the "London Missionary Society," and quickly became well known throughout the Protestant countries of both Europe and America. Their beneficent design was clearly seen and approved of by all ranks of people unprejudiced by the corrupt principles of insidelity. The British Government, to its honour be it said, permitted the Society's ship, employed for the conveyance of Missionaries to the South Seas, to go in and out of the port of London without paying the ordinary customs, and our gracious Sovereign himself condescended to receive from the hands of the Directors of the Society a copy of the Missionary ship Duff's first voyage to the Pacific ocean.

AN account of this society reached Quebec, where certain of the inhabitants, not satisfied according to their own declaration, with the ministry they sat under, petitioned the Directors to send them a minister of the gospel that might minister unto them in holy things. This request, *prima facie*

seemed dictated by a conscientious love of the truth ; and the worthy directors not being able to procure a supply for Quebec, from any dissenting body in their connections, thought it their duty, though it swerved somewhat from their original design, to relieve the consciences of the petitioners. I was accordingly dispatched to Canada in March, 1800, having been publicly and solemnly set apart to the work of the gospel ministry, Nov. 13th, 1798, by the Missionary Society. In the June following I arrived at Quebec, and found most of the applicants gone from the place, and of those that remained, not one appeared to have any true relish for my preaching. But notwithstanding the defection of these characters, it pleased God so to bless my labors, that a number of persons were seriously impressed with the importance of true religion, and the value of the soul, and earnestly desirous of forming themselves into a church or congregation for the regular worship of God through Christ, in that way that appeared the most agreeable to their own consciences. Accordingly, January, 1801, a church communion was organized on the general principles of the church of Scotland, both doctrinal and disciplinary. Properly speaking we could not be of the church of Scotland, but as we held her doctrines and as far as circumstances would permit, intended to conform to her discipline, our claim of being of the same religion with that respectable establishment, must be just and far superior to the like pretensions in persons who deny her doctrines and abandon her discipline ; unless the name more artfully assumed and used by consent of the world, is to be considered as the criterion of the thing ; to assert which would deservedly expose a man to the greatest contempt.\* My people called themselves Presbyterians, because such they are in principle, and not Independents, which circumstances obliged them to be. It matters not however of what denomination we were, or what we called ourselves, whether Pres-

\* The gentleman in Quebec, called a minister of the church of Scotland, was not placed by nor is he accountable to any presbytery for his doctrines or practice ; consequently is in the fullest sense of the word an Independent, which in my mind does not in the least derogate from his character if he be in other respects free from the charges of lukewarmness and the public denial of the eternal divinity and proper atonement of the adorable Saviour, Jesus Christ. If Mr. Spark be a minister of the church of Scotland, he can only be a licensed preacher, that church never giving general orders to her ministers. I therefore beg him to answer the following enquiries : 1. By what Presbytery were you licensed ? 2. By whom were you ordained a pastor ?

byterians, or Independents, or Independent Presbyterians; we were ipso facto a Protestant Dissenting church, agreeing perfectly with the Redeemer's words, respecting a body worshipping in his name with divine acceptance; "Where two or three are gathered together in my name, there am I in the midst of them." Mat. xviii. 20.

HAVING thus formed a church, and being its pastor, lawfully called to the sacred function, I conceived myself fully entitled to all the civil privileges by law or usage granted to dissenting clergymen in the Province of Canada, whether of the church of Rome, or of the church of Scotland, or of any other church. I therefore without hesitation entered on the performance of all the pastoral duties; among which are baptism, and in Canada, the solemnization of marriage, and attending funerals, which by the register act of the Provincial Legislature of Lower Canada, ministers are obliged to insert, so soon as performed, in two registers signed by one of the judges of the court of King's Bench on every leaf; the one a bound volume, to serve until filled; the other unbound, to be renewed annually. These registers I obtained, and have enregistered according to law, every baptism, marriage, and burial, I have performed. The annual one has indeed been refused me on the two years past; but the bound volume I still have, and it will serve me for some years, unless my congregation greatly increase, and will be legal evidence of either of the above actions by me performed.

THE friends of true religion, who know the hatred of the world to truly evangelical preaching, will hardly suppose the work of forming a church on the genuine principles of the gospel, could be effectuated in the midst of idolatry, lukewarmness, and profanity, without opposition; nor was such the case, myself and congregation having experienced much abuse from the enemies of vital godliness, and the supporters of spiritual tyranny. The reproach of the unthinking multitude, and the injurious conduct of private individuals, we cordially forgave, and desire to reward them good for evil; but I have to relate a very different kind of opposition, the injustice of which in respect of myself, I would, considering my own unworthiness, readily pardon, were it not persisted in, and in its effects so highly injurious to the common cause of civil and religious liberty.

For some time previous to a more formidable attack on my civil immunities, it was reported by characters who ought to be better informed, or ashamed of calumny so base, that

the baptisms, marriages,\* and burials, I performed, were invalid in law; that is to say, there would be no legal evidence obtainable of births, marriages, and deaths, of such persons for whom I had performed these services. This strange idea was too gross and abominable for me, at first, to believe it sanctioned by the officers of the government. I therefore disregarded the assertion, as too contemptible to deserve notice, but had, soon after the general circulation of the report, reason to view the matter as a serious attempt of the Episcopalian Party, to crush liberty of conscience, and to drive me out of Quebec. Whether my suspicions were just, let the public determine from the following facts.

By order of Bishop Mountain I was forbidden to attend funerals in the burial ground given by the government to the protestant inhabitants of Quebec, without the least restrictions of the grant to particular denominations. In consequence of this prohibition, I wrote to his Excellency the Lieutenant Governor, praying him to inform me whether it were the will of the executive of the Province that my people should not use the said burial ground for the interment of their deceased friends. My petition produced no positive answer, excepting a declaration from the Attorney General, who interrogated me on the subject, that I had no right to attend funerals, nor to perform marriages, baptisms he then admitted I had a right to perform, though for consistency sake as will be seen, he afterwards denied this right also.

\* The first person of consequence who told me the marriages I had solemnized were not valid, was Dr. Jacob Mountain, Bishop of Quebec, at an interview I had with his Lordship, by his own request for the purpose of enquiring of me, "By what authority I called myself a *Protestant Missionary*, a title I had assumed in a sermon of mine then in the press?" The learned Prelate declared none but the ministers of the church of Rome, of the church of England, and of the church of Scotland, had a legal right to solemnize marriages, and that he had taken the trouble to inform me of that circumstance that I might not do mischief undesignedly, in rendering illegitimate the offspring of such marriages. The condescension and kindness of his Lordship, reminds me of the latin poet's observation,

*Aspiciunt gestant valido sub pectore cultum.*

I denied the Bishop's assertion, affirming myself well assured of the validity of the marriages I had performed. "It is needless, said his Lordship, for us to discuss the matter; the Chief Justice and Attorney General know better than either of us, and they declare what I say to be true. The Chief Justice and Attorney General know better than either of us! Aye, there my Lord you produce the strong argument of Bishops; men of power have frequently, alas, too frequently, proved superior in legal decisions to weak Christians, who wield no sword save the sword of the spirit. And the Attorney General seems in the present case determined to support the fact.

The sabbath following this conversation, a child belonging to a member of my congregation was to be interred, and to prevent confusion, such as had happened by locking me and the corpse out, on a former occasion, I wrote to Mr. Salter Mountain, the Bishop's nephew, desiring him if he had authority from the Lieutenant Governor to exclude me the burial ground, that he would produce it. My letter, like the one I wrote to his Excellency, was answered by the *Attorney General* in person, who came to my lodgings on the sabbath, threatening me with an information in the Court of King's Bench if I attended the funeral of the deceased infant. This threat I considered as a mere fulmen brutum, thunder and lightning that kill nobody, and acted accordingly by officiating at the interment of the corpse. This happened in August, 1802, and I heard nothing more of an official nature concerning the business, until I applied in January of the next year, for the signature of a judge to my annual register, which was refused, because, said Mr. Judge Williams, you are not of the church of Rome, nor of the church of England, nor of the church of Scotland. This procedure I suppose was thought sufficient to deter me from baptizing, performing marriages, and attending funerals; which, if it had been the case, would have rendered me unworthy the name of an Englishman, or of a Dissenting Minister of the gospel. Be that as it may, had I relinquished my claim to the right of performing these functions of the pastoral office, I must have given up my charge as pastor of a congregation, and in fact denied my being a minister of the gospel, to whom pertaineth, by the command of Christ, the administration of baptism; to separate which from the administration of the Lord's Supper would be sacrilege of the grossest kind. The solemnization of marriages might indeed have been dispensed with, it being in itself a civil contract, and not divinely commanded a part of a minister's duty; neither is the performance of a funeral service; but after having married a considerable number of persons, what confusion and slander would have fallen on them, had I yielded to the desire of my enemies; and in respect of burials if I were not tolerated to attend and commit by prayer and exhortation the bodies of my flock to the grave, my congregation would be marked in the person of their pastor by a persecuting distinction. For these reasons I persisted in baptizing, &c. and the Attorney General persisted in endeavouring to prevent my so acting, and with this design, March 23d,

1803, filed in the criminal Court of King's Bench an information quo warranto, against me, "Clark Bentom, gentleman,\* for the assumption of the office of a gospel minister without royal grant, legal warrant, right, or authority whatsoever, thereby usurping on our Lord the King, in claiming a right to baptize, to solemnize marriages, and to perform burials, and to have and keep registers of the same."

THE day this curious information was filed, I heard of the warrant the sheriff had for my apprehension, and suspecting it would not be served on me until the session was over, that an opportunity might be obtained of holding me up as a criminal, thereby to injure my character and if possible to break up my congregation; I resolved on petitioning the Court of King's Bench to issue a mandamus to one of the Judges, directing him to sign my annual church register of baptisms, &c. When I presented my petition, Mr. Attorney General said, "I hope the court will not receive that strange paper?" "What is the form then?" said the Chief Justice; "Why," replied the Attorney General, "I am prosecuting this very man for assuming the ministry of the gospel." Here I believe intelligent men will say, whether my paper were strange or not, I was in strange circumstances, strangely used by a strange perversion of law. The Chief Justice asked me if pleading to the information would not answer my purpose; I answered I was perfectly satisfied with that, provided the business was brought forward; but that I had heard nothing official of the commencement of the prosecution. "Have you not served the warrant?" said the Attorney General, to the sheriff; he replied, "I have not yet seen the gentleman." Query, did he look for him? I mention this, because I think

\* Without discussing the propriety of calling me gentleman in a formal law instrument, which was done to design me a layman, I will quote the remark of a shrewd writer of great reading and erudition. "Every thing habited in blue or black among us we salute the Reverend, not that we affect empty titles or attach ideas of power to them, but because we mean to bear a public testimony to the reality of a right claimed by the people, a right of electing their own religious officers, and of conferring on them all that validity of ordination to office, which daring men in other communities have transferred from the people to their priests. Pretended reformers change the name and preserve the thing; real reformers remove the thing and remain indifferent about the name." *Robinson's Life of Claude*, page 41. The clergy of the church of England, are by the church of Rome, called a Pretended Clergy; and Dissenting Divines, are by the church of England, called the same; but who are in fact pretended clergymen? Those who have not the love of God in their hearts, nor the law of truth on their lips, whether churchmen or dissenters!

it proves my suspicions were just, of their design not to serve the warrant upon me until the session was over. In the evening of the same day, a copy of the following warrant was brought me by a constable.

#### DISTRICT OF QUEBEC.

George the Third, by the Grace of God of the United Kingdom of Great Britain and Ireland, King,  
(L. s.) Defender of the Faith; To the Sheriff of our District of Quebec, Greeting.

WE do require and command you upon Sight hereof, to bring before our Justices of our Court of King's Bench, now holden in, and for the said District of Quebec, for the Cognizance of all Crimes and Criminal Offences, the Body of Clark Bentom, to answer to us upon an Information fyled against him by our Attorney General, for exercising without any Royal Grant, Legal Warrant, Right or Authority whatsoever, the Office of a Priest or Minister, doing the Clerical Duty of a Protestant Church or Congregation within this Province (if the Court shall be then and there sitting) or if not, before any one of the Justices of our said Court of King's Bench, to find sufficient Sureties for his personal appearance at this present Session to answer the same and all such matters as shall be objected against him, and if he cannot be taken during this present Session, that then so soon after as he shall be taken, you bring him or cause him to be brought before any one of the Justices of our said Court of King's Bench to find sufficient Securities for his personal attendance at the next Session of our said Court of King's Bench of and for the said District, to answer as a foresaid, and further to be dealt with according to Justice.

DATED in open Court, at the aforesaid City of Quebec, this twenty-third day of March, in the forty-third Year of our Reign.

By THE COURT.

(Signed) E. BOWEN,  
Deputy Clerk of the Crown.

(A true Copy.)  
(Signed) JA. SHEPHERD, Sheriff.

NEXT morning two constables with their long staves, were sent to bring me to court; but I escaped the shame of being conducted through the streets under such a guard, by my early attendance at the Court, which disappointed my adversary. However, in the public Court the sheriff proclaimed

aloud Clark Bentom to be his prisoner. Clark Bentom, thought I, is but a contemptible prisoner in himself; yet much ennobled by his suffering companions, religious liberty and the constitution of the country!

WHEN I had given bail for my appearance, I informed the Chief Justice I meant to be my own advocate. "Then" said he, "you must proceed according to the forms of the Court," and remained silent. How much more becoming his sacred office it would have appeared, had he said, "You must file a special plea, which if you cannot do yourself, nor your circumstances admit you to employ an attorney, the Court will appoint you an assistant?" or would it not have been as creditable to the character of the Court, to have asked previous to the admitting of the information, by what law or prerogative the office of a dissenting pastor became a public one?

FINDING myself under the necessity of employing one of the honest lawyers of Canada, I applied to Mr. Ker, who undertook to file my plea, and move the Court to appoint a day of trial; but instead of doing this he had the integrity and modesty to move for the business to lie over to another session. When I heard of what he had done, I petitioned the Court to appoint me an attorney to file my plea, as I was not able to prevail on any lawyer in Quebec to do it for me. My request was denied, because, said the Chief Justice, "Tis *safest* for the defendant, and we have more important business to attend to."

IN my petition I complained of Mr. Ker's having deserted me without giving me the least notice of his design, and the gentleman was *complimented* by the Chief Justice as having acted perfectly right. Now for my part, who am but an ignoramus in the arcana of law rectitude, I thought, as did most others, that his conduct was altogether the reverse of right; but it would doubtless be presumption in me to dispute the wisdom and rectitude of a Chief Justice.

As my petition was unsuccessful, I was obliged to remain on the criminal calendar until the Court of King's Bench should sit again; which has not yet taken place.

A SESSION of Oyer and Terminer was held August, 1803, during the absence of the Chief Justice, whose private concerns called him to England. I thought, being a prisoner on bail, I had a right to the benefit of the general gaol delivery; therefore, employed Mr. Panet, Speaker of the House of Assembly of Lower Canada, to file a plea for me;

but not being able to make him understand me, or the nature of my plea, I was obliged to perform the business myself, having learnt the technical form of the instrument from a plea of disclaimer, sent me from the Attorney General for signature, in which was set forth, had I signed the paper, my humble confession of having usurped on our Lord the King, by assuming the office of a minister of the gospel, and by claiming a right to baptize &c. ; therefore throwing myself on the mercy of the Court and my Sovereign, prayed lenity &c. Instead of signing this diabolical paper, I drew up, signed, and put into the hands of the deputy clerk of the crown, the following plea.

District of	}	COURT OF KING'S BENCH.
Quebec.		
Dominus Rex,	}	March Criminal Term, 1803.
<i>versus</i>		<i>Upon an Information, &amp;c.</i>
Clark Bentom.		<i>Quo Warranto.</i>

AND now, that is to say, on the first day of July, in the year of our lord one thousand eight hundred and three, before the said Court of King's Bench for the district of Quebec, in the Province of Lower Canada, cometh the said Clark Bentom in his own proper person and faith, that he the said Clark Bentom was, in the month of January, in the year one thousand eight hundred and one, by a congregation of Protestant Dissenters from the form of worship used by the established church of England, assembling for the worship of God in the parish de Notre Dame; commonly called the parish of Quebec, in the City of Quebec, in the Province of Lower Canada, regularly and unanimously chosen and appointed their pastor to minister unto them in all holy things, that is to say, to preach the word, and to administer the sacraments of Jesus Christ, to solemnize marriages, and to give a word of exhortation at the grave of deceased persons, commonly called burying the dead. The defendant moreover faith, that he the said Clark Bentom from the aforesaid month of January, in the aforesaid year one thousand eight hundred and one, has been and still continues to be at the date hereof the appointed, acknowledged pastor of the said congregation of Protestant Dissenters, in the parish aforesaid, in the city and Province aforesaid. Farther, that the said defendant then believed and still believes that neither he, nor the said congregation by these their actions, have transgressed or broken any law or ancient usage now in force or

ever claimed to be in force in the said Province of Lower Canada, since the subjugation of the same to the Crown of Great Britain.

THAT therefore the said Clark Bentom, minister of the gospel in the parish aforesaid, in the city and province aforesaid, conceives himself fully entitled to all the rights, liberties, privileges, or franchises whatsoever, of Protestant Dissenting Ministers of religion in the Province of Lower Canada, and that he is bound by a penal statute, passed by the Provincial Legislature, in the year one thousand seven hundred and ninety-five, to have and keep two registers of baptisms, marriages and deaths, of a certain description therein specified. The defendant therefore with confidence puts himself on his trial before the said honorable Court of King's Bench, pleading NOT GUILTY to the charge of his Majesty's Attorney General, of having usurped without legal warrant, right, or authority whatsoever, the office of a priest, or minister of a protestant church or congregation in the Province of Lower Canada; trusting for protection from oppression in his person, character or property to the excellent Constitution of the Canadian Provinces, the equity of the said Court of King's Bench, and the consciences of his jury.

(Signed)

CLARK BENTOM.

THIS plea I believe, though not the best that could have been made by a skilful disinterested lawyer, who would have pleaded by a writ of error, a quo warranto by no means lying against me, is nevertheless substantially a good one, and a reply that could invalidate its premises and reasoning, would cut up religious liberty in Canada by the very roots. The man that attempts such a reply, must possess more than common boldness in the cause of spiritual tyranny and arbitrary power.

THE plea being filed, I petitioned the Court of Oyer and Terminer to hear my cause. My petition was not read by any one of the judges, but handed to the Attorney General, who cast his eye over it, and was asked his opinion of it by a significant Eh? from the bench; "Why, said he, Mr. Bentom wishes the Court to take a business out of the Court of King's Bench and bring it into this." Mr. Judge Dunn immediately turning to me, replied, No! it can't be done.

I PETITIONED the Lieutenant Governor, Sir Robert Shore Milnes, to relieve me and my congregation from the oppres-

sion we laboured under. I stated to him the whole proceedings against me, praying him to interfere; but in vain. I presented his Excellency with a declaration made by my church, in which they declare me their appointed, accepted pastor in all holy things; and when it arrived from the Missionary Society, sent him by the hand of a secretary,\* the following testimonial of ordination.

#### TO ALL WHOM IT MAY CONCERN.

We whose names are hereunder written, ministers of the gospel of the independent denomination in London, certify, That the Rev. Clark Bentom, in consequence of enquiry into his gifts to preach the blessed gospel, was on the thirteenth day of November, 1798, set apart to that work by solemn prayer and commendation of him to God. That he was sent out to Quebec by the Missionary Society on application of sundry religious persons in that city. That according to our known principles, should a church be formed, and a call or invitation be given to, and accepted by him, to take the pastoral charge of their souls, he would become in virtue of that call and acceptance, their minister, by themselves ordained (the powers of ordination being in our judgment vested by the Son of God in the body of the faithful, and not in a Diocesan Bishop, or Presbytery) and qualified to baptize, administer the holy communion, and perform every other part of the pastoral office. And whereas, the Rev. Clark Bentom has received and accepted a call to be the pastor of an Independent church in the city of Quebec, we by this testimonial recognize and acknowledge him an ordained minister of the Christian faith, our brother in the sacred work, and give to him the right hand of fellowship, claiming for him, and in his behalf, all the immunities and privileges to which protestant dissenting ministers in the Province of Quebec are by law entitled.

We beg leave further most solemnly to assure all whom it may concern, in the above mentioned Province, that were the said Rev. Clark Bentom now in England, he would stand equally protected by the toleration act, as any other independent or presbyterian minister whatever.

\* As advised by a gentleman of rank in the Province, I sent in a request to his Excellency, that I might be permitted to present the above testimonial to him in person; but this was not granted.

I remember when a boy to have seen an engraving in the Oxford Magazine, representing an Emperor of Germany, I think Joseph the second, receiving, with his own hand, petitions from the lowest of his subjects who thought themselves aggrieved: an example worthy of imitation, commemoration and praise.

Finally, we recommend very affectionately our said brother to the grace of God, to the countenance of all good men, and to the protection of the excellent laws of the British Empire, and express our firm trust that by a peaceable, inoffensive and useful deportment, he will be enabled to deserve that countenance and protection which we so earnestly solicit in his favour. Given at London this 14th day of February, 1803, and attested by

**JOHN TOWNSEND,**

Minister of the Independent Congregation, Bermondsey.

**JOHN TOWERS,**

Minister of the Independent Congregation, Barbican.

**CHARLES BUCK,**

Minister of the Independent Congregation, Camomile Street.

**JOSEPH BROOKSBANK,**

Minister of the Independent Congregation, Haberdasher's Hall.

The answer I received was, "The matter being a question of right, before the Court of King's Bench, his Excellency could not interfere." This would be without doubt perfectly right, if the prosecution had the least foundation, or if there were any thing doubtful in the case; but can the Lieutenant Governor, the honorable Judges of the district of Quebec, or the Attorney General, doubt of the perfect toleration of all sects of religion in the Canadas? Or can they believe an information quo warranto lies against me for holding the office of a Pastor of a Dissenting church, supposing I had not been so regularly inducted into the ministry as the above testimonial specifies? I confess I know not which would be the greatest insult to their characters, whether the supposing them ignorant of the constitution of the country and common law, or the representing them well acquainted with both. If they are ignorant, ought they not to have been better informed, before they undertook such high offices? If they are not ignorant, can they be justified from the charge of gross perversion of justice in the proceedings against me? I determine nothing in respect of these enquiries; yet this I know, there does not appear to me the least uncertainty in any part of the question concerning my right to all the civil immunities of a minister of the gospel in Canada.

THAT I am a minister of the gospel, must be allowed by all who will admit the doctrines commonly called Calvinism, to be gospel; and those who dislike such scripture divinity, must allow me to be a minister of religion of no new stamp, my views of revealed truth, having, as all confess, been sys-

tematically taught and defended in the third century of the Christian era. In respect of ordination, (which is nothing more nor less than formal appointment to the pastoral office) unless the Missionary Society, and the British Independents are incapable of conferring such appointment, or ordination, the ample testimonial I have received from them, must be considered as perfectly satisfactory. However, let the public remember, that Episcopalians allow nothing to be ordination which is not episcopal. A minister of the church of Scotland, would not be admitted into the church of England, without reordination; whilst no such thing is required of Popish priests, who turn protestants; the Pope's ordination being considered as valid by the pure and reformed church, by *law* established. And this shameful practice is persisted in for the support of the old fable of apostolic succession; which, if it proves any thing, proves too much: for if it be sound doctrine, there is no ordained clergy, save the clergy of the Romish communion, who alone are sanctioned by the successors of the apostles, namely, by the Bishop of Rome, and his colleagues; and what then becomes of the church of England and her apostolic succession? Let *Vox papæ vox Christi*\* be their creed; whilst mine is *Vox populi vox Dei*†; for on this the reformation from Popery stands or falls.

THE next question is, Are all denominations of religionists fully tolerated in the Canadas? I answer in the affirmative, they are without exception, as will appear from the following extract from the 42d section of the act of the British Parliament giving a constitution to the two Canadas; in which it is thus enacted: "That whenever any act or acts shall be passed by the Legislative Council and Assembly, of either of the said Provinces, containing any provisions that shall in any manner relate to, or affect the enjoyment or exercise of any religious form or mode of worship, or shall impose or create any penalties, burthens, disabilities, or disqualifications in respect of the same, every such act or acts shall previous to any declaration or signification of the King's assent thereto, be laid before both Houses of Parliament in Great Britain, and that it shall not be lawful for his Majesty his heirs, or successors, to signify his or their assent to any such act or acts until thirty days after the same shall have been laid before the said Houses, or to as-

\* The voice of the Pope is the voice of Christ.

† The voice of the People is the voice of God. By the People, I mean "the body of the faithful."

“sent to any such act or acts in case either House of Parliament shall within the said thirty days address his Majesty, his heirs, or successors, to withhold his or their assent from such act or acts; and that no such act or acts shall be valid or effectual to any of the said purposes within either of the said Provinces, unless the Legislative Council and Assembly of such Province shall in the session in which the same shall have been passed by them, have presented to the Governor, Lieutenant Governor, or person administering the government of such Province, an address or addresses, specifying that such act contains provisions for some of the said purposes herein before specially described, and desiring that in order to give effect to the same, such act should be transmitted to England without delay, for the purpose of being laid before Parliament, previous to the signification of his Majesty’s assent thereto.”

On this part of the constitution no doubt can subsist; it undeniably tolerates all persuasions of religion, old or new, in every particular of their worship, whether in respect of their minister, or in the administration of the ordinances, or any ceremony of religion. The only question that can arise on the subject is, has any act relating to forms of religious worship been passed in the manner here prescribed? I reply none, nor is it pretended that any such act existeth. On what then is the information *quo warranto* against Clark Bentom founded? Why on the provincial register act, passed by the House of Assembly, 1795, so says the Attorney General; and his information tells us the office of a minister of the gospel, since the passing of the said act, has been and still is an office of high trust and pre-eminence touching the rule and government of the Province of Lower Canada. We are then, according to this declaration, to conceive of this act as of a bill of rights and privileges, conferred on the clergy of the Province by the Legislature, which rights and privileges can be alone enjoyed by charter or commission from the Crown. But before we form our opinion, let us examine the law itself, for I have no great confidence in Mr. Sewell’s construction of its intentions, notwithstanding his being the King’s Attorney General, sworn to prosecute justly and lawfully. The statute enacts as follows:

“That in each parish church of the Roman Catholic communion, and also in each of the protestant churches, or congregations, within this Province, there shall be kept by the rector, vicar, curate, or other priest or minister do-

“ing the parochial or clerical duty thereof, two registers, of  
 “the same tenor, each of which shall be reputed authentic,  
 “and shall be equally considered as legal evidence in all  
 “courts of justice, in each of which the said rector, &c.  
 “shall be held to enregister regularly and successively all bap-  
 “tisms, marriages, and burials, so soon as the same shall have  
 “been by them performed.” These registers, as before ob-  
 served, page 10, the one to be renewed annually, the other,  
 a bound volume, to serve until the same be filled, must by  
 the regulations of the act, be signed in every leaf by a Judge  
 of the Court of King’s Bench.

The provisions of this statute are sanctioned by a penalty,  
 which is a sum not less than two pounds, and not exceeding  
 twenty pounds, current money of this Province.

I suppose from these quotations, short as they are, every  
 man of common sense will perceive,

First, that this act is penal, obliging all ministers of every  
 description, to keep signed registers, without forbidding any  
 person to do the same, though none is obliged to have them  
 signed save ministers of congregations or churches.

Secondly, that no exclusion is made of any minister of re-  
 ligion whatsoever, and if no exclusion be expressed, none  
 could be intended.

Thirdly, that the act was not designed to give validity to  
 marriages, baptisms, and funerals, nor to prescribe who should  
 perform them, its object being to secure and legalize evidence  
 of births, marriages, and deaths.

Fourthly, that neither the spirit nor letter of the act ex-  
 cludes the kind of evidence obtainable of such events before  
 the passing of it into a law. To prevent any such weak con-  
 struction of a statute designed for general benefit, an express  
 provision is made in the 13th section; “Provided *always*,  
 “that in *all cases* where the register of any Protestant church  
 “or congregation cannot be found, or where none has ever  
 “been kept, nothing in this act shall be construed to prevent  
 “the proof of baptisms, marriages, or burials, being made  
 “and received, either by witnesses, or family registers, or  
 “papers, or other means allowed by law.”

The act is evidently nothing more than the regulation of  
 a circumstance, namely, the mode of enregistering baptisms,  
 marriages, and funerals. Where the legislators found reli-  
 gious liberty, there they left the invaluable blessing. He that  
 might baptize, &c. previous to the existence of this law, may  
 do so still; nothing in the statute forbidding such actions in

any individual. Nor does the act oblige parents to have their children baptized, in order to render their parentage legitimate; or what would become of the children of Jews, Quakers, Baptists, &c. ? Yet Mr. Attorney General said, in the presence of Mr. William Laing, " You have no right, Mr. Bentom, to baptize, &c. to legal purposes ;" implying, what the Episcopalian party constantly affirmed in the plenitude of their piety and wisdom, that the children I baptized would have no legal proof of their parentage ; the marriages I solemnized, were invalid in law ; and that there would be no evidence admissible in a court of justice of the deaths by me enregistered ! What an horrible principle of persecution, more odious than any ever acted upon by the arbitrary House of Stuart ! it makes my hand tremble whilst committing it to paper ! yet shocking as the idea appears, it is what my persecutors insist on ; and unless some vigorous measure were adopted to prevent it, would I fear succeed in establishing such a wicked doctrine as the rule of practice in Canada, in respect of ministers of the gospel unfashioned by the smiles of episcopacy, and the law officers of the Crown.

As the register act does not interfere with the state of religious liberty, so neither must it be supposed to do so for not being passed as the constitution prescribes acts creating burthens, penalties, &c. in respect of religious worship, to be passed ; it would be virtually saying the House of Assembly and the Legislative Council had broken the Constitution, to assert this statute excludes any minister whatever from the enjoyment of the civil and religious liberties he enjoyed previous to its formation. Mr. Attorney General may make such an assertion ; but I should fear to do so, unless I had a signed and sealed pardon in my pocket.

The Attorney General in his information, admits my congregation to be a protestant church, and declares Clark Bentom, gentleman, to be doing the clerical duty thereof. It then follows from the register act, if the assertion be true, as it certainly is, that it is the duty of Clark Bentom, be he gentleman, or no gentleman, being the congregation's acknowledged minister, to have and keep registers, according to the regulations of the said act.

If I am no minister, as some wise men assert, pray what has the register act to do with me ? nothing in the world ; no more than with one of Mr. Sewell's clerks. So then, be I a minister, or no minister, the information against me is groundless and absurd. Upon the whole, my obedience is

my crime ; the more than common abilities of the Attorney General having converted a penal statute into a bill of rights. One would think the gentleman in possession of the philosopher's stone ; or that he was nearly related to those deep geniuses in Swift's flying island, whom Gulliver found beating marble blocks into downy pillows !

My office as pastor of a dissenting congregation, cannot, except to serve a particular purpose, be called an exclusive franchise ; it is an article of common liberty, and if an information quo warrantò lies against me, for exercising all or any of its duties, it would equally lie against a shopkeeper for serving behind his counter, without royal grant, legal warrant, &c.

But it may be said with propriety, " It is of great consequence to have authenticated registers of births, marriages, and deaths ;" and the truth of this is granted ; whilst with equal reason, we assert, that all denominations of religion ought to enjoy like privilege in this respect ; and that the registers of a Dissenting Minister, deposited in the court of archives, are equally accessible, good, and secure, with those of a Diocesan Bishop.

Before I proceed to speak on the informal, oppressive mode in which this process was conducted, I would give some general hints to dissenting ministers of the gospel in the Province, who are or may be persecuted under colour of the register act.

It is your duty, brethren, if you have a congregation ever so small, to prepare registers according to the above act, and to present them to a Judge of the Court of King's Bench for signature ; in which, by wholesome law, you are holden to enregister all baptisms, marriages, and burials by you performed. If the judges refuse to sign your registers, you have done your legal duty, while they break the law ; and you and your congregations remain on the same footing as before the passing of the act, your actions being neither more nor less valid or lawful. No fine can or will be levied on you for an unavoidable disobedience ; you need not therefore, as some of you do, cross the line separating the dominions of the King from the United States, to perform baptisms, &c.

The having signed registers being a desirable object for your congregations, you ought to prepare and present to the Supreme Court of Appeals, a petition for a mandamus to be issued against one of the judges, directing him to sign your registers. Much clamour being raised against the validity

of the marriages performed by me and some of you, permit me to offer you some reasons which prove the marriages we solemnize equally valid with those performed by the Episcopal clergy.

First, There being no law in the Canadas prescribing the mode in which, or the persons by whom, marriages ought to be contracted and exhibited, that must be legal marriage, which the contracting parties publicly hold to be such, whether exhibited and witnessed by divines or laymen. This is the reason why the marriages performed by civil magistrates are valid in law; and for this reason the Governor's marriage license, or the publication of banns, are not necessary to empower a minister, or magistrate, or notary public,\* to solemnize marriages.

Secondly, Marriage by long usage among most Christians, is become a ceremony of religion, and where it is considered as such, must be included in what the Constitution of the Province calls religious form or mode of worship.

Thirdly, The register act, which constantly joins marriages with baptisms and burials, and the Governor's marriage licenses, the address of which is, "To any Protestant Minister of the gospel," prove, unanswerably, that the usage of the Province gives to all ministers of religion, without exception, the power of solemnizing marriages.

Fourthly, The courts of law in Canada recognize and admit the marriages performed by Dissenting Ministers, as those performed by the Rev. Alex. Spark, of Quebec, who is a dissenter, be he of whatever persuasion or party he may.

These reasons are too convincing to leave a doubt in your mind, or the public's; therefore disregard the calumny of the Episcopal clergy, and firmly hold your civil privileges as the open door of utterance for the blessed gospel; and the Lord be with you. Amen.

The informality with which the prosecution was conducted, will appear cruel to every feeling mind; and as it will serve to illustrate the object of the prosecutors, I will call the attention of my readers for a little while, to the subject. I have already said enough to prove a quo warranto, which is a form of civil law employed to dispossess a pretended officer of a place, authority, or emolument, which can be holden,

\* The legalizing a contract of marriage by a notary public, as it would be a valid act in Canada, so is it in itself properly and naturally a part of his business, if Popish custom had not made it an holy transaction.

exercised, and enjoyed alone by charter or commission from the Crown, does not lie against me. It would most assuredly be absurdity of the grossest kind to affirm a dissenting minister could not act as such, without a commission from the King; or that the King ever gave such a commission, or ever claimed a right of appointing the pastor of a dissenting church! Notwithstanding the impropriety of an information of this nature against me, I was treated in the process with oppressive informality. Instead of a summons, which is the first step in an information *quo warranto*, a criminal warrant was served upon me. The authorized practice will appear from the following quotations out of Comyn's Digest, vol. 6, p. 164. "The first process against the defendant in a *quo warranto* is summons, 1 Siderfin, 86. If he does not appear thereon, judgment shall be for seifure, 1 Sid. 86. 2 Rol. 46. So in an information in the nature of a *quo warranto*, the first process shall be a *venire facias*, (i. e. a summons,) Coke's Ent. 527, b. 1 Sid. 86. If the party does not appear the same term, he shall lose his franchise for ever. Coke 2 Inf. 282."

Instead of pursuing this method, my persecutors obtained a criminal warrant, under which I was apprehended by the sheriff, and obliged to give bail. And what could be the object of this unwarrantable procedure? Could the intention be ought else than the exposing of my character and person to shame and contempt? And what reason had they to do this, if their motives and object were worthy of Christians and honest men, if the laws of the Province, or the prerogative of the Crown sanctioned the prosecution?

When they had me a prisoner in a criminal court, they obliged me to file a special plea, refusing to try me unless I did! Does the voluminous annals of the law record a parallel proceeding? I verily believe they do not; it was left to the great Mr. Sewell, Attorney General of Lower Canada, and his honorable colleagues, to begin so *upright* a practice.

From the nature and mode of conducting the prosecution, the public may clearly perceive its object. Indeed the professed object of the *quo warranto* is to dispossess me of my office of a minister of the gospel, and pastor of a congregation of protestant dissenters. Now if this object could have been attained by pettifogging, law jargon, and quibbling, how easy it would have been to have driven all dissenters out of the Province, and thus profelytes to episcopalianism would have been *powerfully* made.

I have somewhere read a story of Childeric, King of France, in which is related, that this monarch being desirous of converting a Jew to the Christian faith, employed the ministers of religion to convince his mind; but their arguments proving inefficacious for that purpose, the zealous Prince determined to compel him to turn a believer in Christ, and with this design, threw the honest Israelite into chains and a prison. Query, was he a Christian when fettered and in a dungeon, or did Jesus Christ appoint such means of making converts? No; the humble Bishop of Souls neither employed nor appointed to be employed, any other weapon in his service, save the word of truth, and the armour of righteousness.\* Were my congregation obliged to use the ministry of men their consciences disapproved, their condition would be lamentable indeed; and if they submitted to the yoke, would be no better than hypocrites, could not be otherwise than profane. Persecution most certainly never made a true Christian a good subject or an honest man. Penal laws, in mere matters of conscience, are as impolitic as they are unjust; as contrary to the spirit of christianity, as to the common rights of human nature. Why cannot a man be as good a subject, worshipping God in a meeting-house, as if he worshipped him in a cathedral? Because, say lovers of church power, more than lovers of God, he is an enemy to the government. But what is it that makes him an enemy to government, his peculiar way of worship? No! 'Tis oppression and persecution. Have the British dissenters molested or impeded the operations of the government since the passing of the act of toleration? Or did any of our Sovereigns possess the British Throne with more uninterrupted quietude, than the illustrious Princes of the House of Hanover?

\* Were the clergy of the church of England diligently to fulfil the duties of their station, reproving, exhorting, and preaching the word and doctrines of Christ, in season and out of season, as there would be less cause of discontent, I am persuaded there would be a much less number of dissenters.

When the Bishops applied to Charles II. to have more vigorous measures adopted for the suppression of non-conformists, "You want me, said the grieved Prince, to do every thing, while you do nothing: there was a parish priest in Essex, a most stupid fellow, who by his diligence brought all the parishioners to church, how he did it I know not; he had nonsense I suppose for their nonsense, and I gave him a bishopric in Ireland, for the attention he paid to his duty." Query, do all Bishops get possession of their sees by diligent and humble attention to the people of their charge?

In private conversation, the prosecutors insinuate their only object to be, the prevention of illegitimate marriages, and the uncertainty of evidence in respect of births and deaths. But let them answer the following questions :

1. Why seek to prevent in me, what you sanction in another, as in the Rev. Alexander Spark ?

2. If the baptisms, &c. which I perform, be enregistered according to law, what uncertainty can arise in respect of them, any more than in respect of those performed by a Roman Catholic priest ?

3. Why did you not pursue legal and constitutional means to obtain your end ?

If the law officers of the crown can pursue what means they please, to attain what they esteem a salutary end, where is British liberty ? alas, buried with its noble defenders !

I might here dwell on the tendency of the prosecution, if it should not be condemned in the most public and exemplary manner ; but the matter is too plain to need any observations of mine to illustrate it.

The effects of the public proceedings against me might be naturally supposed grievous. My character has been calumniated ; the lamp of my place of worship has been twice broken, by combustibles placed therein ; the windows have also been broken, which obliged me to keep a watchman. On Lord's day, the first of January, of the present year, returning from the meeting, very much fatigued with the exercises of the day, I was attacked in a dark part of the city of Quebec, whilst alone, by some lawless ruffian, who beat me with a bludgeon, the blow or blows of which made me limp for several days. And how can I expect better treatment from the ignorant and profane, whilst those whose duty it is, and who have sworn to defend me, sanction by their own conduct, these felonious proceedings ?

It has been a matter of investigation among the inhabitants of Quebec, who could be the first mover of the prosecution. By several expressions I heard the Attorney General make use of, such as " Mr. Bentom, I have a duty to perform, so have you ; I don't blame you, don't you blame me," he seems desirous of throwing the whole burden on the shoulders of some person behind the curtain : but with whom could the iniquitous affair originate ? With the Lieutenant Governor ? I do not believe it : With the Right Reverend Father in God, the Lord Bishop ? impossible, surely ! the humility, piety, and zeal for truth, and the protestant cause,

which *ought* to adorn the conduct and character of a lord preacher of the gospel, forbid the thought !\* However, let the original promoter of the business be who he may, as I conceive the prosecution against me, and the mode in which it has been conducted, to be a manifest infringement of the 42d section of the Provincial constitution, and a breach of the privileges of the British Parliament, I have prepared and forwarded a petition to the honorable House of Commons, stating my grievances, laying before them the sheriff's warrant, &c. And I doubt not but that vigorous measures will be adopted by that honorable body, for my relief and protection, and for the security of religious liberty in Canada.

Of my King and the laws of my country, I have nothing to complain, they are excellent ; but whether I have not just ground of complaint against the Provincial ministry of Lower Canada, I will now leave the public and the House of Commons to judge, committing myself and my cause into the hand of that God, at whose awful bar we all must stand in the great day of final retribution.

\* If any one, notwithstanding, should be inclined to suspect his lordship, as the cause of my troubles, let him reflect on the following facts.

The wife of Louis L'Abbey, now living in Champlain-street, Quebec, was a domestic in the Bishop's family, and though a Roman Catholic, was desirous of attending the evening prayers, read by his lordship's chaplain ; but was forbidden by her tolerant master, who thought each should keep to his own religion. The same woman one Lord's day, attended worship at the church of England, where she was observed by the Bishop's nephew, a worthy moral divine, who cautioned her not to come again, lest his lordship should suppose him the cause of her coming. Could any thing be more liberal, more remote from persecution, than such principles and such a practice ! If some of the Doctor's servants were Presbyterians, or Independents, could we think he would desire their conversion to episcopalianism ; much less, think that he would persecute a protestant brother in the ministry ! Any sect of protestants, one would suppose equally tolerable to his lordship, with the worshippers of the virgin Mary. I could advance more proofs of Bishop Mountain's liberality of sentiment, and loving kindness towards Roman Catholics.

*Sed tacere, optimum est, plus scire satius est  
Quam loqui ferocem hominem ; ea sapientia est.*

PLAUTUS.

Silence is wisdom, men of servile state  
Should act the safer part, content to know  
More truth than dignities approve to hear.

[As many of my friends may be desirous of seeing a copy of the Petition I have sent to the House of Commons, it is thought advisable to present them with it in print.]

*To the Honorable the House of Commons of the united kingdom of Great Britain and Ireland, in Parliament assembled.*

The humble petition of Clark Bentom, Minister of the Gospel, in the city of Quebec, Lower Canada,

HUMBLY SHEWETH,

THAT your Honors' petitioner is the appointed, accepted, and acknowledged pastor of a congregation of protestant dissenters of the independent denomination, in the City of Quebec, in his Majesty's Province of Lower Canada, in which office he has at all times and on all occasions demeaned himself with unimpeached loyalty and peaceableness, as a loving subject of the King, and a good citizen.

That he the said Clark Bentom, minister of the gospel has, contrary to the letter and spirit of the forty-second section of an act passed by your Honorable House, in the thirty-first year of the reign of his present Majesty, giving a constitution to the two Canadas, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty, entitled an act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province," been cruelly and unjustly prosecuted by the King's Attorney General of Lower Canada, Jonathan Sewell, Esq. for the assumption of the pastoral office of the said congregation of protestant dissenters in the City of Quebec, and for the same apprehended by the sheriff of the district of Quebec under the following warrant. *See the Sheriff's warrant, p. 14.*

That the said Clark Bentom, your Honor's petitioner, has been refused the signing or paraphrasing of his annual church register by the Judges of the Court of King's Bench, of the district of Quebec, which he is obliged to obtain from one of them, by an act passed in the year of our Lord one thousand seven hundred and ninety-five, by the Provincial Legislature of Lower Canada, and threatened in the public Court of King's Bench, March 31st, 1803, in the presence of the Hon. John Elmsley, Chief Justice of the Province of Lower Canada, and the Hon. Pierre Amable De Bonne, one of the judges of the said Court, by the said Attorney General of Lower

Canada, with an attachment, if he baptised, performed marriages, or attended funerals, pending the said prosecution against him, which has laid your Honors' petitioner under what he humbly conceives to be an unconstitutional burthen or disability of performing these parts of his pastoral duty, otherwise than as a criminal acting in defiance of the law, to the no small injury of his character and the peace of his congregation.

That this unjust prosecution, brought into the Criminal Court of King's Bench in the form of an information quo warranto, 23d March, 1803, your Honors' petitioner has not been yet able to bring to an issue, notwithstanding his humble and earnest petitions to his Majesty's Lieutenant Governor, Sir Robert Shore Milnes, and to the honorable Court of King's Bench for that purpose, presenting to his excellency the said Lieutenant Governor a testimonial of his having been solemnly set apart to the work of the gospel ministry, and acknowledged as an ordained minister of the Christian faith, by the Independent divines of Great Britain, together with a declaration of the said congregation of protestant dissenters in Quebec, setting forth that your Honors' petitioner is their acknowledged pastor in all holy things.

That your Honors' petitioner humbly prays for permission to submit to the wisdom of your honorable House, whether the imprisonment and injury which he has suffered in his character and property, be not a breach of the privileges of your honorable House, contrary to the aforesaid forty-second section of the aforesaid act of your honorable House, passed in the the thirty-first year of his Majesty's reign, which renders it unlawful for the legislative or executive powers of either of the Canadas, to create or impose any penalties, burthens, disabilities, or disqualifications in respect of any religious form or mode of worship, without the concurrence of the British Parliament, and whether therefore the present matter of the complaint of your Honors' petitioner, be not properly a subject for the cognizance and judgment of your honorable House.

And that your Honors' petitioner most humbly and earnestly prays your Honors to take the proceedings against him and the griefs he has endured, into your immediate consideration, granting him such relief and protection as in your wisdom may seem most suitable to the pain and loss he and his congregation have sustained, and to adopt such measures

as may be best calculated to prevent such prosecutions in future, and powerfully to protect the invaluable blessings of religious liberty granted by your Honorable House to his Majesty's Provinces of Upper and Lower Canada; and your Honors' petitioner as in duty bound, will continue to pray that the Almighty God and Father of the Lord Jesus Christ would vouchsafe to your Honorable House the choicest blessings of wisdom, protection and glory.

Your Honors'

most dutiful and

obedient servant,

CLARK BENTON.